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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/801,489 03/07/01 JI

L 055-01

EXAMINER

PM82/0720

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ART UNIT	PAPER NUMBER

5

3627
DATE MAILED:

07/20/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/801,489

Applicant(s)

Ji

Examiner

Gary Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 18, 2001
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above, claim(s) 1-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-36, 38-53, and 55-58 is/are rejected.
- 7) ☒ Claim(s) 37 and 54 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed June 13, 2001 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Due to the quality of the photographs provided and complete lack of functional/structural description, the examiner cannot determine if the "Suzuki Latch", "Toyota Latch", Nissan or Mazda Latch", :Lexus Latch", "Latch", or "Nissan Latch" (items 1-6) are relevant to the claimed invention or not. Accordingly, the latches illustrated therein could not be considered and the portions of the I.D.S. corresponding to these items have not been initialed.

Election/Restriction

2. This application contains claims directed to the following patentably distinct species of the claimed invention:

- a. Group I - the embodiment of Figures 1-14.
- b. Groups II- the embodiments of Figures 15-57.

Currently, no claims are generic.

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3. Applicant's election with traverse of claims 23-58 corresponding to the invention of Group II in Paper No. 4 is acknowledged. The traversal is on the ground(s) that there would be no burden on the examiner. This is not found persuasive because even though the searches for the individual inventions may overlap, the required search for each of the individual inventions is not required for other of the individual inventions in whole.

The invention of Group I is classified in class 292 subclass 184 while the invention of Group II is classified in Class 292 subclass 231. However, the actual search required for examination of either embodiment is considerably more extensive whereby search and examination of claims directed to both inventions would place undue burden on the examiner.

Applicant argues that new claim 58 is generic and allowable. And while generic claims would be examined, it should be noted that claim 58 is not generic inasmuch as it requires the claimed invention to have a "pawl pivotally secured to said housing" whereas the invention of Group I has a pawl that is linearly, slidably mounted in such a way that it cannot pivot.

For the above reasons, the requirement is still deemed proper and is therefore made FINAL. If claims are hereafter added, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a). Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141.

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Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 38 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

As best understood, the embodiment of the invention corresponding to that claimed has a pawl that is biased towards its latched position. See page 18; lines 9-10. It does not appear that the disclosed latch would function if biased in the direction set forth in the claim.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 26 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear if Applicant intends to claim a "pin" as part of the invention or not.

Regardless, it is not clear what structure is intended to be encompassed by recitation of "pin".

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Present functional limitation functionally recites the “pin” and ‘as best understood’; does not require the claimed invention to have a “pin”. However, clarification is required.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. As best understood, claims 23-36, 39, 40, 50, and 58 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,906,044 to Wilstermann.

Wilstermann ‘044 discloses an embodiment (Fig’s 6, 7) that teaches Applicant’s claim limitations including : a “housing” - 90, a “handle” - 96, a “pawl” - 100, a “pawl retaining arm” - arm including part 108, a “pendulum secured to said pawl-retaining arm” - arm including 110.

As regards claim 26, the interior of part 90 reads on limitation of “channel” - where part 98 teaches “pin”.

As regards claim 27, Wilstermann ‘044 teaches elastically deformable portion 52 for biasing the handle.

As regards claim 29, limitation of “stop” is broad and does not patentably define over the surface of the handle that ultimately limits the extent of pivotal movement.

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10. Claims 41-49, 51-53, 55, and 58 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,803,537 to Langmeser.

Langmeser '537 discloses teaches Applicant's claim limitations including : a "housing" - 24, a "button" - 36, a "pendulum" - 50, a "pawl" - 42, "means for pivotally securing said housing and said pawl" - the configuration and size of the space provided for part 50 performs the recited function and is not excluded by Applicant's disclosure from being considered as an equivalent to the disclosed structure.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,803,537 to Langmeser in view of U.S. Pat. No. 5,106,132 to Bako.

Langmeser '537 does not illustrate a plate-style keeper as now claimed. However, plate-style keepers are long known in the art of latches as shown by Bako '132. It would have been an obvious design choice or engineering expedient for one of ordinary skill in the art at the time of the invention to provide the latch with a plate-style keeper as taught by Bako '132 since the keeper disclosed by Langmeser '537 is long known in the art to be generally equivalent to the

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keeper disclosed by Bako '132 where one of ordinary skill in the art is well aware of cost savings associated with keeper as illustrated by Langmeser '537 versus increased strength of the keeper illustrated by Bako '132 and would have more than a reasonable expectation of success in modifying the latch of Langmeser '537 to accept a keeper such as the one illustrated by Bako '132 since the choice of either style keeper does not affect the function of the disclosed latch.

13. Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,803,537 to Langmeser in view of U.S. Pat. No. 3,951,448 to Hawie.

Langmeser '537 teaches the claimed invention except for a lock. Hawie '448 teaches that it is well known in the art to provide a similar receptacle with a lock. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the receptacle of Langmeser '537 with a lock as taught by Hawie '448 in order to increase security for items placed in the receptacle as is long known in the art.

Allowable Subject Matter

14. Claims 37 and 54 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. U.S. Pat. No. 3,828,899 to Scott.
- b. U.S. Pat. No. 4,094,899 to Gregg.
- c. U.S. Pat. No. 5,415,314 to McCollum.

16. Submission of your response by facsimile transmission is encouraged. Group 3627's facsimile number is (703) 305-3597. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly within our examining group and will eliminate Post Office processing and delivery time and will bypass the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a Deposit Account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitted by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 305-3597) on _____

(Date)

Typed or printed name of person signing this certificate:

(Signature)

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If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is (703) 308 - 0494. The examiner can normally be reached on M - Th from 730 am to 600 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bethanne Dayoan, can be reached on (703) 308-3865. The fax phone number for this Group is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.



GWE

July 15, 2001

**GARY ESTREMSKY
PRIMARY EXAMINER**